

Wyoming Administrative Rules

Health, Department of

Aging Division

Chapter 15: Electronic Monitoring of Long-term Care

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Chapter 15

Electronic Monitoring of Long-term Care

Section 1. Authority. The Department of Health (Department) promulgates this chapter pursuant to Wyoming Statutes 9-2-1204, 35-1-240, 35-2-908, 35-2-1308(a), and 35-4-101.

Section 2. Purpose & Applicability.

(a) This chapter implements the Long-term Care Electronic Monitoring Act, W.S. 35-2-1301 to -1308; and

(b) This chapter applies to electronic monitoring in assisted living facilities and nursing care facilities.

Section 3. Definitions & Construction.

(a) The following definitions apply to this chapter:

(i) “Assisted living facility” means as defined in W.S. 35-2-901(a)(xxii).

(ii) “Nursing care facility” means as defined in W.S. 35-2-901(a)(xvi).

(iii) “Electronic Monitoring Device” means as defined in W.S. 35-2-1308(a)(iv)

(b) Provisions that use the term “resident” are intended to apply to the “resident’s representative” when necessary or appropriate to account for an individual with a power of attorney for health care or other legal authority to make health care decisions on behalf of a resident who lacks capacity to consent.

Section 4. Electronic Monitoring Grievances and Complaints.

(a) Each resident may submit a grievance to the facility or the Department related to the facility’s actions regarding the resident’s use of electronic monitoring equipment. This includes but is not limited to any refusal to permit monitoring or a denial of a request to change rooms or roommates if a roommate does not consent to use of electronic monitoring.

(b) Each resident must be informed in writing that they have a right to submit a grievance to the facility or the Department without discrimination or reprisal from the facility.

(c) The facility must provide each resident information on the process to submit a grievance, the requirements for the facility to respond, and the right of the resident to contact the Long-Term Care Ombudsman at any time, including if a grievance is not resolved to the satisfaction of the resident.

(d) The facility must attempt to resolve the resident's grievance and provide a written response to each grievance within 14 business days.

(e) The facility shall identify a facility staff person who is responsible for receiving resident grievances and ensure compliance with these rules.

(f) The facility shall forward all unresolved grievances having to do with electronic monitoring to the Long-Term Care Ombudsman.

(g) The facility shall provide the resident with contact information, including telephone number and address, for the following:

- (i) The individual identified in 4(e) above;
- (ii) The Long-Term Care Ombudsman;
- (iii) Protection & Advocacy System, Inc.;
- (iv) The local office for Department of Family Services, Adult Protective Services;
- (v) Wyoming's Medicaid Fraud Control Unit; and
- (vi) The State Survey Agency.

(h) The facility shall provide the resident a copy of their rights to submit grievance and information on the process to submit grievances related to the use of electronic monitoring devices at the following times:

- (i) Upon the resident's admission;
- (ii) Upon the residents request for an electronic monitoring device;
- (iii) Once every year following a resident's request for and continued use of the electronic monitoring device; and
- (iv) Upon any amendment or other change to the facility's electronic monitoring device grievance policy.

(i) At any time, including if a facility fails to respond to or resolve a resident's grievance, the resident may forward the grievance to the Long-Term Care Ombudsman. The Long-Term Care Ombudsman shall handle the grievance as a "complaint" under the Long Term Care Ombudsman Act, W.S. 9-2-1301 to -1309.

(j) The facility shall provide the Long-Term Care Ombudsman access to all facility records regarding a resident's grievance or complaint, upon the Long-Term Care Ombudsman's request and the consent of the resident.

Section 5. Facility Use of a Recording from a Resident's Electronic Monitoring Device.

(a) Pursuant to W.S. 35-2-1303(d), in the event the resident uses a copy of a recording made by a resident's electronic monitoring device in an administrative hearing, a facility may request a copy of that recording. This request must explain the reason for the request and be limited to a timeframe of the recording specific to the scope of any complaint made by the resident against the facility or facility employee. A resident has the right to refuse permission to provide access to the recording. A facility may not access any recording without written permission of a resident.

(b) Facilities requesting recordings from a resident must notify the Long-Term Care Ombudsman of the request and the reason for their request within one business day of the request. Facility must notify the Long-Term Care Ombudsman of receipt of any recording within one business day of receipt.

(c) Pursuant to W.S. 35-2-1303(d), a facility may use a recording made by a resident's electronic monitoring device with the consent of the resident according to the following:

(i) If the facility is an assisted living facility to investigate a suspicion of:

(A) Abuse, neglect, or exploitation as required under *Rules, Department of Health, Aging Division*, chapter 12, § 7(i) (2020);

(B) A violation of resident rights established under *Rules, Department of Health, Aging Division*, chapter 12, § 7(c) (2020); or

(C) The resident not receiving care and services in accordance with the resident's needs as contemplated under *Rules, Department of Health, Aging Division*, chapter 12 (2020).

(ii) If the facility is a nursing care facility, to investigate a suspicion of:

(A) Abuse, neglect, or the misappropriation of resident property as required under 42 C.F.R. § 483.12;

(B) A violation of resident rights established under 42 C.F.R. § 483.10; or

(C) The resident not receiving care and services in accordance with the resident's needs as contemplated under 42 C.F.R. Part 483, Subpart B.

Section 6. Facility Licensure. A facility's compliance with this chapter is a condition of the facility's licensure pursuant to W.S. 35-2-908.